

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANNIE TOLER.

Plaintiff,

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COMMISSIONER OF SOCIAL SECURITY.

Defendant.

Case No. C19-5978 TLF

ORDER GRANTING PLAINTIFF'S MOTION FOR ATTORNEY FEES

This matter comes before the Court on plaintiff's unopposed motion for attorney fee's pursuant to 42 U.S.C. § 406(b). Dkt. 17.

Under 42 U.S.C. § 406(b), the Court may allow reasonable fees for an attorney who represented a Social Security claimant before the Court and obtained favorable judgment, as long as such fee does not exceed 25% of the total past-due benefits. *Gisbrecht v. Barnhart*, 535 U.S. 789, 792 (2002). When a contingency agreement applies, the Court will look first to such agreement and will conduct an independent review to assure the reasonableness of the fee requested, taking into consideration the character of the representation and results achieved. *Id.* at 807, 808. Although the fee agreement is the primary means for determining the fee, the Court may reduce the fee for substandard representation, delay by the attorney or because a windfall would result from the request. *Crawford v. Astrue*, 586 F.3d 1142, 1151 (9th Cir. 2009) (citing *Gisbrecht*, 535 U.S. at 808).

1 Here, plaintiff signed a contingency fee agreement agreeing to pay plaintiff's
2 attorney a fee equal to 25% of the amount awarded for past-due benefits. Dkt. 17-2.
3 The representation was not substandard and achieved a favorable result. Dkt. 14, 15.
4 This Court remanded this matter to the Administration for an award of benefits. Dkt. 14,
5 15. There is no evidence of an excessive delay by the attorney or that a windfall will
6 result from the requested fee.

7 Plaintiff moves for attorney's fees in the amount of \$22,000, which is less than
8 25% of plaintiff's total past-due benefits. Dkt. 17. Plaintiff's was previously awarded
9 \$7,581.95 and \$7,489.09 in attorney fees under the Equal Access to Justice Act
10 ("EAJA"). See, Dkt. 18; Toler v. SSA, No. 18-cv-5202-DWC at Dkt. 16. Therefore,
11 plaintiff is moving for a remaining attorney's fee award of \$6,928.96. Dkt. 17. Based on
12 the Court's review of the relevant record, the Court orders attorney's fees in the amount
13 of \$6,928.96, minus any applicable processing fees allowed by statute, be awarded to
14 plaintiff's attorney pursuant to 42 U.S.C. § 406(b).

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16 Dated this 3rd day of September, 2021.

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20 Theresa L. Fricke
21 United States Magistrate Judge
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